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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,158	06/19/2006	Andrea Ketzer	884A.0099.U1(US)	1496
10/948 7590 01/13/2011 Harrington & SMith, Attorneys At Law, LLC 4 Research Drive, Suite 202 Shelton, CT 06484				
EXAMINER SMITH, CHENECA				
ART UNIT		PAPER NUMBER		
2192				
MAIL DATE		DELIVERY MODE		
01/13/2011		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/538,158

Applicant(s)

KETZER, ANDREA

Examiner

CHENECA SMITH

Art Unit

2192

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 December 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(g).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____
Claim(s) objected to: _____
Claim(s) rejected: 1-7,10,11,13-25,28 and 29
Claim(s) withdrawn from consideration: _____

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
SEE CONTINUATION SHEET.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/CHAMELI C. DAS/
Primary Examiner, Art Unit 2192

In response to Applicant's arguments regarding claim 1 that "as will be readily apparent to the Examiner, the content application descriptor of figure 7 of Gibbons fails to disclose or even suggest, for example, a "MIDlet-Jar-Size;" as well as a "MIDlet-Vendor;" likewise, the web descriptor file of figure 11 of Gibbons also fails to disclose or even suggest, the above mentioned attributes which are in a Java Application Descriptor" (see page 13 of Applicant's arguments), Applicant should note that the features upon which applicant relies (i.e., MIDlet-Jar size and MIDlet-Vendor attributes) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to Applicant's arguments regarding claim 1 that "the content descriptor file and the web descriptor file either alone or in combination do not correspond to a Java Application descriptor, nor a Java Application Descriptor having attributes as recited in the independent claims" (see page 13 of Applicant's arguments), Examiner respectfully disagrees. Gibbons discloses an applicator descriptor (i.e. content descriptor file/web descriptor file, see Figs.7 and 12 and associated text, e.g. col.24 lines 38-41) a first data element comprising a value of the MIDlet-Name attribute of the Java Application Descriptor (i.e. resource-id, see Table 2 lines 12 and col.18 lines 35-37- the application submitted with the file is a midlet and is identified as "Stockticker_1" by content providers), the second data element comprising the value of the MIDlet-Jar-URL attribute of the Java Application Descriptor (i.e. content-URL, see Table 2 line 13 and col.18 lines 37-39 – the application resides at the URL: "http://www.midletcentral.com/store/jar/Stockticker.jar?id=123") and, for each of the third data elements, wherein the second data portion defines a translation of the name defined by the value of the MIDlet-Name attribute into a language specified by the individual locale identifier portion (i.e. locale, see Table 2) of the third data element (see col.18 lines 29-32). Therefore, the content descriptor file/web descriptor file of Gibbons does teach a Java Application Descriptor having attributes as recited in independent claim 1 and other similar independent claims.